



## Office of the Governor

June 22, 2016

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Bureau of Land Management  
U.S. Department of the Interior  
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Jacque Buchanan, Acting Regional Forester  
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U.S. Department of Agriculture  
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Nora Rasure, Regional Forester  
Intermountain Region  
Forest Service  
U.S. Department of Agriculture  
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Ogden, UT 84401

Dear State Director Rugwell, Acting Field Supervisor Abbott, Acting Regional Forester Buchanan, and Regional Forester Rasure,

Wyoming's Greater Sage-Grouse Core Area Protection strategy (Strategy) – embodied in Executive Order 2015-4 – is based on the principle that conservation of important habitat essential to the maintenance of the Greater sage-grouse and activities important to the state's economy are not mutually exclusive. The basic principles of this conservation effort are avoidance, minimization and mitigation – with mitigation only employed where avoidance and minimization are either inadequate or impossible.

There will be instances in which Greater sage-grouse habitat will be impacted by project developments. In those instances where minimization and other forms of mitigation are inadequate to protect Core Population Area Greater sage-grouse, these impacts must be offset through compensatory mitigation actions that benefit Greater sage-grouse. The basic principle underlying the implementation of mitigation strategies is "the more impactful the negative action on the ground the greater the mitigation required."

Application of this principle and maintaining project flexibility are not simple tasks, and should be undertaken with careful deliberation. I am asking all agencies to operate under a single,

manageable framework on mitigation. This will maintain consistency and ensure direct benefit to the species. Any compensatory mitigation proposal must include approval from the State of Wyoming to assure the species considered is adequately protected, and that the benefits proposed for a species under the jurisdiction of the State of Wyoming are real, adequate, and realized prior to the time of acceptance. I have asked the Wyoming Wildlife and Natural Resource Trust (WWNRT) to coordinate this framework. I am also forming an oversight team made up of a representative of the following agencies: WWNRT, Wyoming Game and Fish Department, Office of State Lands and Investments, and Office of the Governor. The oversight team shall coordinate as necessary with federal and state agencies where a project interfaces with land or permitting processes of those agencies.

Executive Order 2015-4, in Attachments A and H, addresses rigorous mitigation standards to be defined and developed. I have approved a “State of Wyoming Greater Sage-Grouse – Compensatory Mitigation Framework” (Framework). A copy of the Framework is attached. I have directed state agencies to adhere to the Framework when permitting or advancing projects requiring compensatory mitigation in Wyoming. This Framework is based on the principle – the greater the impact, the greater the required offsetting compensation. This is essential to maintaining the desired balance and focusing the majority of development outside important habitats. The Framework is consistent with the management prescriptions set forth in the land and resource management plans adopted by the Bureau of Land Management and U.S. Forest Service.

The formulas set forth compute the degree of impact (debit) and the value of mitigation offset (credit). Debits reflect the specific project plans and the locale in which they occur. Projects impacting core area habitat generate more debits than those that do not. Impacts to different habitat types result in varying debit amounts based on the value and importance of the habitat. Similarly, credits have different values depending on the nature, quality, durability and other attributes of the habitat.

These calculations base debits on project specifics and allow for a variety of compensatory mitigation options. This approach furthers the Wyoming Strategy by weighting the credits and debits to incentivize avoidance and minimize impacts. If impacts cannot be avoided or minimized, it provides a net conservation benefit to the habitat and species. State agencies – WWNRT, Game and Fish Department, Department of Agriculture, State Engineer, Department of Environmental Quality, Office of State Lands and Investments, State Parks and Cultural Resources, Department of Transportation, Water Development Commission, Oil and Gas Conservation Commission and the Office of the Governor – have entered into a Memorandum of Agreement which incorporates the Framework. This MOA facilitates implementation Attachment H to Executive Order 2015-4, dated July 29, 2015. In order to maintain consistency of approach, and to assure effective conservation of Greater sage-grouse in Wyoming, I ask you to incorporate the Framework into your permitting programs.

The federal “net conservation benefit” or “net gain” approach to mitigation standard is not supported by the authority granted to federal land management agencies by Congress. I do not



Mary Jo Rugwell, Tyler Abbott, Jacque Buchanan, Nora Rasure  
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support the standard as a matter of policy. By adopting very rigorous requirements for credit eligibility, Wyoming will always achieve a net conservation benefit (see State of Wyoming Greater Sage-Grouse – Compensatory Mitigation Framework, Table 1). The State's credit eligibility criteria, including required occupancy, durability, financial assurances, habitat suitability, additionality, landscape support and risk reduction features, assure that the credit offset yields a gain for the species.

The likely reality is that federal agencies will make oil and gas, mining and other projects exceedingly difficult to permit on federal lands without an enhanced offset ratio (beyond a 1:1 ratio). The State of Wyoming has included a built in "Net Conservation Gain" policy adjustment of three (3) credits to assure the impact of the action is replaced at an adequate rate, potential threats are removed across the State of Wyoming over time and the perpetuation and stability of the species (see State of Wyoming Greater Sage-Grouse – Compensatory Mitigation Framework, Table 2).

Under this approach, federal agencies should be confident that: no additional "net gain" requirements are necessary to secure the future of the Greater sage-grouse in Wyoming allowing federal and state projects to be analyzed and approved more quickly and efficiently.

Sincerely,



Matthew H. Mead  
Governor

MHM:dh

Cc: Bob Budd, Executive Director, Wyoming Wildlife and Natural Resource Trust  
Jim Lyons, Deputy Assistant Secretary, Lands and Minerals Management, U.S.  
Department of the Interior  
Jeffrey Klein, Executive Director, Natural Resource Investment Center, U.S.  
Department of the Interior  
Neil Kornze, Director, Bureau of Land Management, U.S. Department of the  
Interior

Encl.